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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
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10 WINDMILL & EASTERN, LLC.,

11 Plaintiff,

12 v.

13 SIMON SHAKIB, an individual and as the  
14 trustee of the Nevada K, LLC Defined Pension  
Plan; et al.,

15 Defendant.  
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2:11-cv-1082-LDG-PAL

**ORDER**

17 This is a declaratory judgment action seeking resolution of whether the defined pension  
18 plan was governed by ERISA at the time defendants pledged the CD as security for the loan  
19 pursuant to the pledge agreement, and assuming that the plan is governed by ERISA, whether the  
20 CD is a protected asset. Before the court are plaintiff Windmill & Eastern, LLC's, motion for  
21 summary judgment (#12, response #14, reply #18, supplement #24) and defendants' counter  
22 motion for summary judgment (#15, supplement #24).<sup>1</sup> On February 24, 2012, defendants filed a  
23 notice of bankruptcy for debtor Simon K. Shakib, who is named individually and as co-trustee of  
24 the Nevada K, LLC.  
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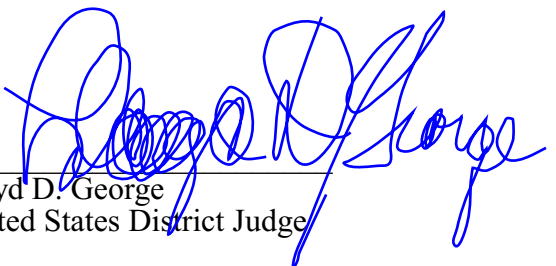
<sup>1</sup>The docket does not reflect the filing of a response to the counter-motion.

1 The court must defer resolution of the summary judgment motions until a determination is  
2 made regarding the effect that the bankruptcy filing has on this case. The court will deny the  
3 pending motions without prejudice to their reinstatement after such determination, and will direct  
4 the parties to file briefs on the issue.

5 THE COURT HEREBY ORDERS that plaintiff Windmill & Eastern, LLC's, motion for  
6 summary judgment (#12) and defendants' counter motion for summary judgment (#15) are  
7 DENIED without prejudice subject to their reinstatement following a determination regarding the  
8 effect that the bankruptcy filing has on this case.

9 THE COURT FURTHER ORDERS that the parties shall have sixty (60) days in which to  
10 file supplemental briefs regarding the effect that the bankruptcy filing has on this case.

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13 Dated this 13 day of March, 2012.

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Lloyd D. George  
United States District Judge